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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 19

Application Number: 09/349,650
Filing Date: July 08, 1999
Appellant(s): NYHAN ET AL.

Mark Joy
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on Jun 16, 2003.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences, which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that the claims do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8). Instead, the claims fall in two groups:

Group I: 1-18 and 20

Group II: 21-50

(8) Claims Appealed

A substantially correct copy of appealed claims appears on pages A1-A7 of the Appendix to the appellant's brief. The minor errors are as follows: The Brief has inadvertently left out claims 14 and 16-17, which are being reproduced below-

Claim 14.

The method of claim 13 further comprising the step of:

Generating a survey accessible by the computer of the user.

Claim 16.

The method of claim 13 further comprising the step of:

Generating a survey questions based on information received from the advertisers.

Claim 17.

The method of claim 13 further comprising the step of:

Computing effectiveness of the advertisement based on survey results obtained from users exposed to the advertisement and from users not exposed to the advertisement.

(9) Prior Art of Record

1.	5,724,521	Dedrick	03/1998
2.	5,794,210	Goldhaber	08/1998

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

This rejection is set forth in prior Office Action (Paper no. 12) and it is herein copied.

In the following Office Action, the highlighted portions represent either the Examiner's interpretations of the prior art vis-à-vis the claimed invention or the prior art specific teachings.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Dedrick, U.S Patent 5,724,521.

The original rejection is still maintained, as presented below, since the newly cited limitations were addressed by the previous rejection.

As per claim 1-12, Dedrick teaches a system comprising:

1.

A code **or an account number** associated with an advertisement received from an advertiser **18** or an advertiser server **so that Metering Servers 14, upon determining where the characteristics of the end-users served by each of metering servers fall on the consumer scale associated with an advertisement from a particular advertiser, can identify which advertiser has submitted an Ad. and forward the information to the Clearinghouse Server 20 for either crediting or debiting the account of the advertiser whose advertisement has matched the an end-user profile (see abstract-col.14, lines 13-24- col.17, lines 17-35-col.12, lines 9-16);**

A server **or a Metering Server 14 of fig.1 in conjunction with the Statistic Compilation Process 26 of fig.2** capable of identifying when the advertisement is viewed by the user **using client PC 12** wherein the code **or the advertiser's account appended to the advertisement** sends a signal **back** to the **Metering** server **14 of fig.1** indicative of **how much of** the **said** advertisement **was viewed or consumed by the end-user so that appropriate credit or debit can take place (col.9, lines 27-48-col.12, lines 9-16)**; and

A computer **or client PC 12 of fig.1** on which the advertisement **or electronic information** is viewed by the user wherein the computer has a file **stored on the client PC 12 Hard disk or a GUI, containing information such as en-user variables,** on which an indicator is generated, the indicator providing information associated with the advertisement **such as how many Ad screens were viewed by the user (col.3, lines 29-67 and col.4, lines 1-2-col.9, lines 27-48).**

2. Wherein the information **compiled by Statistic Compilation Process 26 of fig.2** includes **not only** time at which the user viewed the advertisement, **but also how much of the Ad was consumed by the end-user so that the end-user's account can be debited or credited by Clearinghouse Server 20 of fig.1** (Keeping track of the time at which an Ad. was viewed by an end-user is anticipated by Dedrick-col.9, lines 27-48-col.12, lines 9-16-col.14, lines 13-24).

3. The system further comprising:

An advertising server **or Yellow Page Server 22 of fig.1** capable of delivering the advertisement to the computer **or client PC 12 of fig.1** of the user **via the Metering Server 14 of fig.1 (col.12, lines 9-16).**

4. The system further comprising:

A plurality of advertising servers **or Yellow Page Servers 22 of fig.1** capable of delivering an advertisement to the computer **or client PC 12 of fig.1** of the user wherein each of the advertisements includes **a code or advertiser's account or consumer scale** associated with the advertisement and further wherein the servers **are** capable of identifying, **using the Statistic Compilation Process 26 of fig.2 in conjunction with Metering Server 14 of fig.1, not only** when the advertisement is viewed, **but also how much of the Ad was consumed**, by the user **so that the Publisher's/Advertiser's account can be debited or credited by Clearinghouse Server 20 of fig.1 (col.5, lines 1-19-col.12, lines 9-16-col.14, lines 13-24).**

5. Wherein the server generates a survey **or query or quiz** that may be accessed by the user **to answer questions or fill out a questionnaire regarding an advertisement that he has viewed (col.3, lines 38-47-col.17, lines 6-15- further, a survey to answer questions about an Ad. so that the effectiveness of the Ad. can be measured was disclosed on page 2 line 20 to page 3 line 8 as prior Art).**

6. Wherein the survey is dynamically generated, **especially if the user is using the Interactive Process 76 of fig.5 as described in col. 17 and lines 6-15 and the advertiser is giving an incentive to the user or customer for reading advertising messages and before the user's account is credited by the Publisher/Advertiser 18 of fig.1, the user will be automatically quizzed**, based on advertisements to which the user has been exposed **(col.3, lines 38-47-col.17, lines 6-15- further, a survey to answer questions about an Ad. so that the effectiveness of the Ad. can be measured was disclosed on page 2 line 20 to page 3 line 8 as prior Art).**

7. Wherein the survey obtains demographic information of the user **if the user is willing to provide such information or if the advertiser is willing to offer some kind of incentive to the user for providing demographic or psychographic data to the advertiser (anticipated by Dedrick) or Publisher/Advertiser 18 of fig.1 can specifically request end-user profile data from Billing Process 54 of fig.4 (col.14, lines 44-51-further, a survey to answer questions about an Ad. so that the effectiveness of the Ad. can be measured was disclosed on page 2 line 20 to page 3 line 8 as prior Art).**

8. Wherein the server or **Yellow Page Server 22 of fig.1** includes a plurality of categories **or titles which identify advertisements from a particular Publisher/Advertiser 18 of fig.1** (see abstract-col.11, lines 59-67).

9. Wherein the server **or Yellow Page Server 22 of fig.1** generates a survey or **query** that may be accessed by the user **to answer questions or fill out a questionnaire regarding an advertisement that he has viewed (col.3, lines 38-47-col.17, lines 6-15- further, a survey to answer questions about an Ad. so that the effectiveness of the Ad. can be measured was disclosed on page 2 line 20 to page 3 line 8 as prior Art),** wherein results of a plurality of surveys answered by a plurality of users assist in computing the effectiveness of the advertisement **or in matching the user's variables (demographic or psychographic data) in a best-fit-pricing manner so that the Ad delivered to the end-user client PC 12 of fig.1 via Metering Server 14 of fig.1 from Yellow Page Server 22 of fig.1 matches the user's variables see abstract).**

10. Wherein the server receives questions generated by the advertiser **for a user who, using Interactive Process 76 of fig.5, can directly view advertisements and answer queries from Publisher/Advertiser 18 of fig.1 sent to the user via Yellow Page Server 22 of fig.1 (col.17, lines 6-15).**

11. Wherein the server receives questions and selected demographic information **or consumer scale associated with the advertisement (consumer variables which include a particular demographic profile that must be met by the user's variables so that Publisher/Advertiser 18 can be charged the highest price based on this consumer best-fit-pricing manner- see abstract- col.5, lines 1-4-col.11 lines 59 to col.12 line 16)** generated by the advertiser.

12. Wherein the advertiser **or Publisher/Advertiser** may access research results **or survey responses from users stored in Yellow Page Server 22 of fig.1 for further marketing processing** (anticipated by Dedrick-further, the importance of on-line research was disclosed on page 2 line 31 to page 3 line 9 as prior Art).

Claims 1-18 and 20-50 are rejected under 35 U.S.C. 102(e) as being anticipated by Goldhaber et al., US Patent 5, 794, 210A.

As per claim 1, Goldhaber et al. disclose a system comprising the following limitations-

A code or a **Cybercoin 62 of fig. 4 or simply a filename** associated or attached with an advertisement received from an advertiser server **(Attention Broker Server 106 (1) of fig. 1) subsequent to clicking on the Cybercoin 62 to automatically retrieve or download the advertisement from an advertiser Web site having a specific URL over the Internet 102 of fig.1 (Col. 11: 8-24);**

A server capable of supplying an indicator identifying an instance wherein the advertisement is activated for viewing by the user **upon clicking on the Cybercoin 62 to automatically retrieve the advertisement for display on the user computer 104 of fig. 4 where the advertisement can be read or interacted with**, and wherein the code **or Cybercoin 62** initiates sending a signal to the server **or advertiser web server having a URL or Attention Broker Server 106 (1) of fig. 1** indicative of activation of the advertisement **by the interested user who was incentivized to read the said advertisement corresponding to the Cybercoin 62 representing a monetary value or coupon or credit value (See abstract; col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 10: 39-57);**

A computer **or a user computer 104 of fig. 1** on which the advertisement is activated for viewing by the user wherein the computer has a file within which the indicator is stored, the indicator providing information associated with the advertisement **viewed by the user upon clicking on the Cybercoin 62 associated with the advertisement (Col. 11: 8-24; col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 10: 39-57; figs. 4, 12 and 13- It is to be understood that data regarding the user's interaction with the advertisement can be stored either on the Attention Broker Server 106 or on the user computer 104 having a database 120 of fig. 7, wherein the interaction data can become part of the Interest Profile 124 of fig. 7, thereby preventing the user to view the same advertisement over and over while being compensated- col. 12: 14-44; col. 16: 42 to col. 17: 63).**

As per claims 2-12, Goldhaber et al. disclose a system comprising the following limitations-

2. Wherein the information **or interaction data** includes **not only** time at which the user viewed the advertisement, **but also the user's account (Keeping track of the time at which an Ad. was viewed by an end-user is inherent in the current reference- Figs. 12-13; col. 5: 56 to col. 6: 2; col. 10: 39-57; col. 7: 56-61).**

3. The system further comprising:

An advertising server **or Advertiser Web Server having a URL or Attention Broker Server 106 of fig. 1** capable of delivering the advertisement **68 of fig. 8** to the computer **104** of the user **via Internet 102.**

4. The system further comprising:

A plurality of advertising servers **or Attention Broker Servers 106(1)...106(N) of fig. 1** capable of delivering an advertisement to the computer **or user computer 104(1)...104(N)** of the user wherein each of the advertisements includes **a code or associated Cybercoin 62 or simply a filename** associated with the advertisement and further wherein the servers **are** capable of identifying, **consumed, upon clicking by the user on a Cybercoin 62 to activate or retrieve the advertisement for display on the user computer 104 o fig. 4**, an instance wherein the advertisement is activated for viewing by the user **(See abstract; col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 10: 39-57).**

5. Wherein the server generates a survey **or a guessing game, a quiz or a joke** that may be accessed by the user **to answer questions or fill out a questionnaire regarding an advertisement that he has viewed (col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; see claim 56 of the current reference).**

6. Wherein the survey is generated based on the advertisements to which the user has been exposed **(col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; see claim 56 of the current reference).**

7. Wherein the survey obtains demographic information of the user **if the user is willing to provide such information or if the advertiser is willing to offer some kind of incentive to the user for providing demographic or psychographic data to the advertiser (col. 6: 24-31; col. 6: 46 to col. 7: 7), thereby associating a reaction or response to an advertisement with a particular user whose name, address and e-mail address are known to the advertiser, who can subsequently contact the user (col. 7: 56-67).**

8. Wherein the server or **Attention Broker Servers or Information Servers 106(1)...106(N) of fig.1** includes a plurality of categories for classifying advertisers **or advertisements wherein ads for Opera are stored in server 106(2) and ads for ski are stored in server 106(1) (fig. 10; col. 15: 47-67).**

9. Wherein the server generates a survey or **quiz** that may be accessed by the user **to answer questions or fill out a questionnaire regarding an advertisement that he has viewed** wherein results of a plurality of surveys answered by a plurality of users assist in computing the effectiveness of the advertisement (**This limitation is inherent in the current reference-col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; see claim 56 of the current reference).**

10. Wherein the server includes an interface for receiving questions generated by the advertiser **for a user (This limitation is inherent in the current reference-col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; col. 10: 41-57; col. 7: 56-67; see claim 56 of the current reference).**

11. Wherein the server includes an interface for receiving questions and selected demographic information generated by the advertiser (fig. 8; col. 14: 17-40).

12. Wherein the advertiser may access research results **or survey responses from users so that the advertiser can change, if need be, the content of the advertising message or directly contact the user as a follow-up (This limitation is inherent in the current reference-col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; col. 10: 41-57; col. 7: 56-67; see claim 56 of the current reference).**

As per claims 13-17, 18 and 20, Goldhaber et al. disclose the following limitations:

13.

Providing the advertisement message **68 of fig. 8** through an on-line network **or Internet 102 of fig. 1** accessible by the computer **104 of fig. 1** of the user;

Attaching a code **or a Cybercoin 62 of fig. 4 or simply a filename** to the advertisement for facilitating identifying an instance wherein the advertisement has been activated upon the computer **104 of fig. 1** for viewing by the user **subsequent to clicking on the Cybercoin 62 to automatically retrieve or download the advertisement from an advertiser Web site having a specific URL or Attention Broker server 106 of fig. 1 over the Internet 102 of fig. 1 (Col. 11: 8-24)** and initiating sending a signal to a server **or Attention Broker server 106 or an advertiser web server wherein the signal indicates that the user has activated the Cybercoin 62 associated with the advertisement for displaying the said advertisement on the user computer 104 or the user has interacted with the advertisement (col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; col. 10: 41-57; col. 7: 56-67)**; and

Storing information in the computer **or PC 104 of fig. 1 Hard disk** of the user provided by the server wherein the information relates to activation of the advertisement **(It is to be understood that data regarding the user's interaction with the advertisement can be stored either on the Attention Broker Server 106, subsequent to the data being transmitted from the user computer 104 to the Attention Broker Server 106, or on the user computer 104 having a database 120 of fig. 7, wherein the interaction data can become part of the Interest Profile 124 of fig. 7, thereby preventing the user to view the same advertisement over and over while being compensated more than once for viewing the same advertisement- col. 12: 14-44; col. 16: 42 to col. 17: 63; fig. 12-13).**

Claims 14-15 contain limitations already addressed in claims 5-6 respectively and therefore, these limitations of claims 14-15 are rejected under a similar rationale as respectively applied to claims 5-6.

16. The method further comprising the step of:

Generating survey questions based on information received from the advertisers **for a user (This is inherent in the current reference- col. 5: 56 to col. 6: 2; col. 7: 56-67; col. 10: 41-57; col. 16: 42 to col. 17: 63; see claim 56 of the current reference).**

17. The method further comprising the step of:

Computing effectiveness of the advertisement based on survey results obtained from users exposed to the advertisement and from users not exposed to the advertisement to generate a survey or **quiz** that may be accessed by the user **to answer questions or fill out a questionnaire regarding an advertisement that he has viewed (It is to be understood that if a user clicks on Cybercoin 62 to simply claim an incentive and fails to read the associated advertisement, he/she will not be able to answer the survey questions correctly. Further, if a user was not exposed to the advertisement or fails to interact with the advertisement, it will be quite obvious to the advertiser and thus, the said user will not be compensated by the advertiser (col. 5: 56 to col. 6: 2; col. 7: 56-67; col. 10: 41-57; col. 16: 42 to col. 17: 63; see claim 56 of the current reference).**

Claims 18 and 20 substantially recite limitations already addressed in claims 13 and 2 respectively and therefore, these limitations of claims 18 and 20 are rejected under a similar rationale as respectively applied to claims 13 and 2.

As per claim 21, Goldhaber et al. teach a system comprising the following-

21.

An administration computer **or Financial Clearinghouse Server 108 and/or Attention Broker Server 106 of fig. 1 (fig. 10);**

A user computer **104 of fig. 1**;

An advertisement message **68 received from an advertiser via Attention Broker Server 106 of fig. 1 to be displayed on user computer 104 of fig. 1 subsequent to the user clicking on a Cybercoin 62 associated with the advertisement (fig. 4; col. 11: 8-24)**; and

A set of computer instructions executed on the user computer **104 of fig. 1** in association with activation of the advertisement message **when the user clicks on the Cybercoin 62 of fig. 4 related to the advertisement message 68 (This limitation is inherent in the current reference- figs. 4 and 10: col. 11: 8-24)**, facilitating:

Generating a signal **indicating that the user has interacted with the advertisement message**, in association with activation of the advertisement message on the user **computer 104 of fig. 4 when the user clicks on the Cybercoin 62 to read the advertisement message**, to the administration computer **or Attention Broker Server 106 (col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; col. 10: 41-57; col. 7: 56-67)**; and

Storing, in association with the signal, within memory **or RAM or Hard disk drive** on the user computer **104** a value received from the administration computer **or Attention Broker Server 106** in response to the signal and indicative of activation of the advertisement message **(It is to be understood that data regarding the user's interaction with the advertisement can be stored either on the Attention Broker Server 106, subsequent to the data being transmitted from the user computer 104 to the Attention Broker Server 106, or on the user computer 104 having a database 120 of fig. 7, wherein the interaction data can become part of the Interest Profile 124 of fig. 7, thereby preventing the user to view the same advertisement over and over while being compensated more than once for viewing the same advertisement- col. 12: 14-44; col. 16: 42 to col. 17: 63; fig. 12-13).**

As per claims 22-33, Goldhaber et al. teach a system comprising the following limitations-

22. Wherein the administration computer **or Attention Broker Server 106 of fig. 1** includes executable computer instructions for:

Receiving **by the advertiser or Attention Broker Server 106** the signal from the user computer **104 when the user clicks on the Cybercoin 62 of fig. 4 related to the advertisement message 68 (This limitation is inherent in the current reference- figs. 4 and 10: col. 11: 8-24;** and

Transmitting from **the advertiser or Attention Broker Server 106,** in response to the receiving the signal, a message to the user computer **104** resulting in the user computer **104**

performing the storing a value step **indicating that the user has interacted with the advertisement 104 (It is to be understood that data regarding the user's interaction with the advertisement can be stored either on the Attention Broker Server 106, subsequent to the data being transmitted from the user computer 104 to the Attention Broker Server 106, or on the user computer 104 having a database 120 of fig. 7, wherein the interaction data can become part of the Interest Profile 124 of fig. 7, thereby preventing the user to view the same advertisement over and over while being compensated more than once for viewing the same advertisement- col. 12: 14-44; col. 16: 42 to col. 17: 63; fig. 12-13).**

23. The above system further comprising a cookie **or a file** storable on the user computer **104 Hard disk drive** and wherein the cookie **or file** contains the value **or data related to the user's interaction with the advertisement (col. 12: 14-44; col. 16: 42 to col. 17: 63; fig. 12-13).**

24. Wherein the cookie **or file** comprises a time value corresponding to activation of the advertisement message on the user computer **104 (Keeping track of the time at which an Ad. was viewed by an end-user is inherent in the current reference- Figs. 12-13; col. 5: 56 to col. 6: 2; col. 10: 39-57; col. 7: 56-61).**

25. Wherein the cookie **or file** comprises an identification **or an inherent code or tag** of the advertisement message **(col. 12: 14-44; col. 16: 42 to col. 17: 63; fig. 12-13).**

26. Wherein the user computer **104** includes a record of advertisement messages activated on the user computer **104 (col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; see claim 56 of the current reference).**

27. Wherein the record further stores information corresponding to times at which advertisement messages, including embedded code for invoking the generating a signal, have been activated on the user computer **(Keeping track of the time at which an Ad. was viewed by an end-user is inherent in the current reference- Figs. 12-13; col. 5: 56 to col. 6: 2; col. 10: 39-57; col. 7: 56-61).**

28. The above system further comprising an advertisement server **or Attention Broker Server 106 of fig. 1** that transmits the advertisement message to the user computer **104 when the user clicks on the Cybercoin 62 (Col. 11: 8-24; figs. 1 and 4).**

29. Wherein the administration computer or **Attention Broker Server 106** includes executable instructions for providing survey questions to the user computer **104 (This limitation is inherent in the current reference-col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; see claim 56 of the current reference).**

30. Wherein at least one of the survey questions is based upon at least the value within memory **or RAM** of the user computer indicative of the activation of the advertisement message

(col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; see claim 56 of the current reference).

31. Wherein the survey questions include requests for demographic information of a respondent **if the user or respondent is willing to provide such information or if the advertiser is willing to offer some kind of incentive to the user for providing demographic or psychographic data to the advertiser (col. 6: 24-31; col. 6: 46 to col. 7: 7), thereby associating a reaction or response to an advertisement with a particular user whose name, address and e-mail address are known to the advertiser, who can subsequently contact the user (col. 7: 56-67).**

32. The above system further comprising analytical tools that analyze results from a plurality of survey results to render data indicative of activated advertisement effectiveness **(Limitation inherent in the current reference-Col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; see claim 56 of the current reference).**

33. Wherein at least one question of the survey questions **or query** is supplied by an advertiser **(Limitation anticipated by Goldhaber et al.- Col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; see claim 56 of the current reference).**

As per claims 34-50, Goldhaber et al. teach a method comprising the following steps-

34.

Receiving, by a user computer **104 of fig. 1,** an advertisement **68** including an embedded code **or ID or filename or Cybercoin** 62 (Anticipated by Goldhaber et al.- figs. 1 and 4; col. 11: 8-24);

Generating, by the user computer **104**, in accordance with the embedded code and in association with activation of the advertisement message on the user computer **104 of fig. 4 when the user clicks on the Cybercoin 62 to read the advertisement message**, a signal for an administration computer or **Attention Broker Server 106, indicating that the user has interacted with the advertisement (col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; col. 10: 41-57; col. 7: 56-67)**; and

Storing, in association with the signal, within memory **or RAM or Hard disk drive** on the user computer **104** a value received from the administration computer **or Attention Broker Server 106** in response to the signal and indicative of activation of the advertisement message **(It is to be understood that data regarding the user's interaction with the advertisement can be stored either on the Attention Broker Server 106, subsequent to the data being transmitted from the user computer 104 to the Attention Broker Server 106, or on the user computer 104 having a database 120 of fig. 7, wherein the interaction data can become part of the Interest Profile 124 of fig. 7, thereby preventing the user to view the same advertisement over and over while being compensated more than once for viewing the same advertisement- col. 12: 14-44; col. 16: 42 to col. 17: 63; fig. 12-13).**

Claims 35-45 and 48 contain limitations already addressed in claims 22-32 and 33 respectively and therefore, these limitations of claims 35-45 and 48 are rejected under a similar rationale as respectively applied to claims 22-32 and 33.

46. The above method further comprising the step of:

comparing survey results of exposed and non-exposed users to render the data indicative of activated advertisement effectiveness for a particular advertisement **(It is anticipated in the art of advertising over a computer network that a user who was not exposed to an ad cannot effectively answer a quiz about the ad, especially if the user will be compensated for reading the ad- col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; col. 10: 41-57; col. 7: 56-67).**

47. The above method further comprising the step of providing on-line access **via Internet 102 of fig. 1** to the data indicative of activated advertisement effectiveness, **stored on Attention Broker Server 106 or user computer 104 of fig. 1 connected over the Internet 102, to advertisers or to the Financial Clearinghouse 108 of fig. 4 or fig. 10 for rewarding the user upon determining using the interaction data or quiz result associated with the advertisement that the user has indeed read the advertisement (col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; col. 10: 41-57; col. 7: 56-67).**

49. The above method further comprising the steps of:

Rendering advertisement effectiveness values based on survey results obtained from user exposed to the advertisement and from users not exposed to the advertisement **(It is anticipated in the art of advertising over a computer network that a user who was not exposed to an ad cannot effectively answer a quiz about the ad, especially if the user will be compensated for reading the ad- col. 5: 56 to col. 6: 2; col. 7: 56-61; col. 16: 42 to col. 17: 63; col. 10: 41-57; col. 7: 56-67).**

50: The above method further comprising the step of

Receiving, by an administration entity associated with the administration computer **or Attention Broker Server 106** questions and selected demographic information provided by an advertiser (fig. 8; col. 14: 17-40).

(11) Response to Argument

First of all Appellant argues regarding claim 1-12, on page 8 and lines 10-13 of the Brief, that Dedrick (in US Patent 5, 724,521) **does not disclose or suggest a code associated with an ad such that, when the ad is executed, the user computer sends a signal to a server, and the server responsively provides an indicator stored within a file on the user computer,** as recited in claim 1. The Examiner completely and respectfully disagrees with the Appellant's findings. The argued and highlighted claim limitations as herein presented were never claimed. In other words, the user computer does not send any signal to the server, which causes the server to respond by providing an indicator, associated with the viewing of the ad by the user, and wherein the indicator is stored within a file on the user computer. To this end, although the

claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claim (claim 1) rather recites an advertisement from an advertiser having a code (indicator or indicium) to indicate to a server that the ad is viewed or being activated by a user via his computer and wherein the indicator is stored in a local file on the user computer permanent memory. Dedrick does support or anticipate the limitations of claim 1, as herein interpreted or understood. Indeed, Dedrick teaches a system for providing electronic advertisements to consumers or users in a consumer best-fit profile wherein an advertiser pays the owner of an advertising medium based on how well the consumer's profile matches the advertiser's defined profile as determined by a Metering server 14 of fig. 1. The higher the profile or characteristics of the consumer served by a particular Metering 14 of fig. 1 falls, the higher the fee charged to the advertiser (See abstract). Moreover, the consumer or end-user is provided via his client system 12 of fig. 1 with Software having a graphical user interface (GUI) to participate in the advertising distribution system 10 of fig. 1. The software contains a plurality of fields that allow the consumer or user to input, among other things, his name, password, demographic or psychographic profile information. In addition, the software permits the consumer to receive inquiries, request information by viewing, storing and printing. The client system 12 of the user may also be provided with tools to create content. **Further, the software allows the monitoring of the consumer's behavior or interaction with the advertisement in order to measure the effectiveness of the advertising distribution system (col. 3: 29 to col. 4: 2). In fact, a statistical compilation process or tool 26, stored in the consumer's client system 12 permanent memory or hard disk drive, compiles statistical data regarding the consumer's**

interaction with a piece of information or advertisement from a given advertiser and subsequently forwards these data to Metering server 14 for further processing when the consumer establishes a communication with system 10. In other words, Here, the statistical data include how time the end-user spent consuming a unit of information or advertisement or electronic content and how much of the advertisement or electronic content was actually consumed or viewed by the end-user. For instance, a particular advertisement may include ten different screens, which are displayed to the consumer via client system 12. If the consumer spends 15 seconds viewing the first screen and 15 seconds viewing the second screen and then terminates the display, the statistic compilation process 26 transfers information to the Metering server 14 indicating that the specific consumer, having a specific profile, had spent 30 seconds reading the first and second screens (two screens out of ten or 20% usage or consumption-Col. 9: 28-48; col. 4: 16-25; col. 8: 53-65). At Metering server 14, the compiled information or statistical data is used not only to measure the effectiveness of the system, but also to bill or debit the advertiser's account and credit the consumer's account for spending 30 seconds viewing the two screens out of ten associated with the particular advertisement (fig. 7b; col. 13: 53-63). In addition, Appellant argues that the last Office Action did not did not account for modification to the "a computer" paragraph of claim 1 and thus, the Office Action did address the "amendment" or "modification". The Examiner respectfully and completely disagrees with the Appellant findings. In fact, the modification made to the claim did not require any new ground of rejection and was therefore addressed by the Examiner. Further, the modification was not deemed substantial so as to require any consideration or examination on the merits. Moreover, having a code, indicative of the user's

interaction with the displayed advertisement, embedded within the advertisement itself or having a Software (a series of computer codes or instructions used to perform a particular task) or statistic compilation process 26 or a code monitor the user's interaction with the displayed advertisement produces the same expected result-monitoring the user's interaction with the displayed advertisement and subsequently record the user's interaction data or indicator on the user's computer 12 Hard drive. This is an internal process, which is for the most part transparent to the user. The issue before the Board is whether or not the user's interaction with a displayed advertisement is being monitored and an indication of this monitoring or interaction data is saved or stored on the user's computer 12 Hard disk drive. This question has been successfully answered.

Second of all Appellant argues regarding claims 1-12, on page 8: 27 to page 9: 2 of the Brief, that the Goldhaber's Cybercoin 62 (in US Patent 5, 794,210) **does not fall within the scope of the claimed "code", which initiates sending a signal to the server indicative of an activation of the advertisement with which the code is associated. According to the Appellant, the Cybercoin 62 as featured in the Office Action, contrary to the limitations of claim 1, is selected in order to download the advertisement and therefore is not used to initiate sending a signal indicative of activation of the advertisement (because the advertisement does not yet exist on the user's computer).** Although the Appellant asserts, concerning claim 1, that the **advertisement must have already been loaded on the computer and activated when the code executes on the user's computer to initiate sending the signal to the server,** however these limitations are not presently being claimed. Although the claims are

interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In addition, contrary to the Appellant's simplistic view of the prior art, Goldhaber teaches a system wherein a user or consumer is paid to read advertisements from an advertiser, attention brokerage or other parties. In one embodiment, the consumer clicks or activates an associated Cybercoin icon 62 to initiate retrieval and display of the associated advertisement on the consumer's computer 104 screen. In the interactive embodiment, the displayed advertisement asks the consumer a series of questions related to the viewing of the advertisement. The displayed advertisement, as herein understood, having an embedded code that causes the computer 104 to send a first signal, indicative of the user's activation and the user's interaction with the said advertisement, upward to the Attention Brokerage Server 106 (administration server), which returns a message or a second signal or a digital cash, in the form of a computer code, related to the said advertisement and representative of the Cybercoin 62 to the user's computer 104 to be stored in a digital cash repository 126 subsequent to determining by the Server 106 that the user has successfully completed the process (col. 16: 6-15).

Moreover, from fig. 12 and col. 16: 42 to col. 17: 63, a consumer interacts, via his computer 104, with an advertisement and associated Cybercoin 62 stored on the Server 106. A Software (a series of computer codes or instructions used to perform a specific task) stored on the computer 104 collects interaction data and then determines whether computer 104 (Agent 110) has an activate certificate or identifier (a registered user has an identifier) to participate in the program. In the affirmative, the process or the Software or code sends the certificate data and the user's collected interaction data (interaction with the advertisement) upward to a network

destination or URL (associated with Server 106) as specified by a code embedded within the activated Cybercoin 62 (sending a first signal indicative of the advertisement activation from computer 104 to Server 106). Upon receiving the information (certificate and advertisement interaction data) from the consumer's computer 104, a software process executed on the Server 106 designated by the Cybercoin 62 activated by the consumer uses the transmitted certificate data to identify the consumer's account. Afterwards, the Server 106 determines, based on the interaction data collected and transmitted by the computer 104, whether the user's interaction with the advertisement was adequate (adequacy depends upon particular requirements related to the advertisement), thereby verifying that the user has paid attention to the said advertisement before he can receive a compensation for performing such a task. In the affirmative or if the consumer had done everything correctly, the Server 106 returns a message or a second signal or acknowledgement code or digital cash, in the form of a computer code, related to the said advertisement and representative of the Cybercoin 62 to the user's computer 104 to be stored in a digital cash repository 126, wherein the transmitted digital cash is directly or uniquely associated with the said advertisement. Indeed, once this digital cash directly related to the advertisement is transferred to computer 104 and stored thereon, the Server 106 deactivates this particular Cybercoin by updating its database, thereby preventing the consumer from receiving additional compensations by merely and successively repeating the same process for the same advertisement (that is logging into Server 106 and continuously viewing the same advertisement).

In another specific embodiment, a lingerie company, for example, may be willing to pay a consumer or user to view its advertisement for a new line of lingerie products. An information

56 representing an advertisement or such other "negatively priced information", as depicted in fig. 3, is being provided or displayed to the user. A virtual "price tag" 58 or any other indicia uniquely associated with the information 56 or advertisement indicates the amount of money the advertiser will compensate the consumer to pay attention or view the advertisement or information 56. Here, the consumer uses his/her computer 104 to read and interact with information 56, thereby evidencing that he has paid attention to information 56 before he can receive the payment corresponding to the viewing of the advertisement or information 56. In response to the consumer viewing and interacting with information 56, the advertiser or Attention Brokerage Server 106 compensates the consumer by providing the payment 60 related to information 56 in the form of digital cash and/or credit on the consumer's account or directly transferring the payment or digital cash (code) or a second signal associated with the advertisement (in the form of a computer instruction or code) to be stored on the user's computer 104 Hard disk drive (col. 10: 39-57; fig. 3). Please, notice here that the consumer does not have to click on the Cybercoin 62 first to cause transmission of the advertisement or information 56. The advertisement or information 56 is displayed on the consumer's computer 104 screen along with the amount of money in the form of a "price tag" that the advertiser is willing pay to the consumer. In short, Upon clicking on the information 56 and paying attention to it by answering a series of related questions, the consumer's computer 104 sends a first signal (first indicator), indicative of the consumer's activation and interaction with the advertisement or information 56, upward to the Attention Brokerage Server 106, Which, in response and upon receiving a confirmation (interaction data) that the user has indeed paid attention to the advertisement, the Server 106 sends back a second signal representing a digital cash or displayed "price tag" 58, in

the form of a computer code, related to advertisement or information 56 to the consumer's computer 104 where it is permanently stored. Here, the digital cash representing the value of the "price tag 58" related to information 56 is unique such that if the consumer clicks on the same advertisement in the future, the system or Server 106 will not transfer any digital cash or compensation to the consumer's computer 104. It is worth noting that information 56 or advertisement has one or more embedded computer codes that cause the user's computer 104 to forward a first signal, indication of the activation or interaction with the advertisement displayed on computer 104 screen, upward to the Server 106, which in turn responds by sending back a second signal or digital cash 60, in the form of a computer code, equal to the displayed "price tag" 58 corresponding to information 56 to the user's computer 104 for storage (col. 10: 39 to col. 11: 7).

Additionally, the arguments regarding independent claims 13 and 18 are similar to those of claim 1. Further, claims 1-18 and 20 stand and fall together. Once more, Appellant argues on page 9: 6-7 of the Brief that **there is no indication in Goldhaber that the Cybercoin 62 is attached to a particular advertisement.** First and foremost, this argument has been fully addressed as shown above. Indeed, at the conclusion of a browsing session, the Server 106 returns, upon receiving the user's interaction data, a message or a second signal or acknowledgement code or digital cash, in the form of a computer code, related to the said advertisement and representative of the Cybercoin 62 to the user's computer 104 to be stored in a local digital cash repository 126, wherein the transmitted digital cash related to the Cybercoin 62 is directly or uniquely associated with the said advertisement. Further, once this digital cash directly related to the advertisement is transferred to computer 104 and stored thereon, the Server

106 deactivates this particular Cybercoin 62 by updating its database, thereby preventing the consumer from receiving additional compensations by merely and successively repeating the same process for the same advertisement (that is logging into Server 106 and continuously viewing the same advertisement). In other words, the transferred and stored digital cash representative of he Cybercoin 62 is associated with the displayed advertisement, contrary to the Appellant's remarks.

Moreover, concerning claims 21-50, Appellant points out **that the Goldhaber's Patent discloses storing values on the server computer 106 database 120, evidencing advertisement execution by the user computer 104. In contrast, continues the Appellant, both independent claims 21 and 34 require storing advertisement activation information on the user's computer.** First, and in general, the storing "code element" arguments have been addressed above. Second, database 120, comprising digital cash repository 126, interest profile 124, contact information 122 and account history 125, is directly coupled to the user's computer 104 (col. 10: 58 to col. 11: 7; col. 12: 14-37; col. 16: 6-17). In one embodiment, the user's interest profile 124 can be stored, for example, on the computer 104 and/or the Server 106. In other words, the Server 106 may store a copy of the current user's profile 124 and associated user's contact information 122 for each user and may not release unless authorized the related information to advertisers (col. 14: 17-56). It appears here that the Appellant has misinterpreted the teachings of the prior art. In fact, throughout the reference, it is clear that database 120 with its components, created by consumer's computer 104 during registration, stores the consumer interest profile 124 and contact information 122, where they are kept confidential. Although Server 106 can maintain a current copy of the user's interest profile 124 so that targeted

advertisements can be presented to the user. Server 106 can share, if authorized by the user, the interest profile 124 with an interested advertiser while the user contact information 122 is kept confidential except if the user agrees to fully or partially sell the contact information 122 to an interested advertiser. The user can also edit the interest profile 124 locally stored on computer 104 (col. 12: 38 to col. 14: 11; col. 15: 48-56).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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